

U.S. Patent App. No. 10/733,492
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REMARKS/ARGUMENTS

I. STATUS OF THE PENDING CLAIMS

Upon entry of this amendment, claims 1-7, 12, 35-37, 40, 42, 44 and 53-60 are pending in the present application. Claims 1, 7, 35, 36, 40, 42, 44 and 53 are amended to more particularly point out the subject matter of the claimed invention. Claims 8, 41 and 43 are canceled without prejudice or disclaimer. New claims 55-60 are added. New and amended claims add no new subject matter and are fully supported by the specification.

Claims 36 and 40-41 are rejected under 35 U.S.C. § 102(b) as allegedly unpatentable over U.S. Patent No. 5,794,212 to Mistr, Jr. ("Mistr"). Claims 1, 3-8, 12, 35, 42-44 and 53-54 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Mistr, further in view of U.S. Patent No. 6,343,277 to Gaus ("Gaus"). Claim 2 is rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Mistr, further in view of Gaus, further in view of Robinson et al. ("Development of the Intercontrol Center Communications Protocol") ("Robinson"). Claim 37 is rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Mistr, further in view of U.S. Patent No. 6,281,601 to Edelman et al. ("Edelman").

II. REJECTIONS UNDER § 102(b)

Claims 36 and 40-41 stand rejected under 35 U.S.C. § 102(b) as allegedly unpatentable over Mistr. Applicant respectfully submits that these rejections are traversed on the basis of the following arguments.

A rejection of claims as anticipated under 35 U.S.C. § 102(b) requires a showing that each and every claim limitation be identically disclosed in the applied reference. If even one claim limitation is not disclosed in the reference, the claim is patentable over the reference.

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Claim 36

Claim 36 recites a first sub-system operatively associated with an energy supplier having a plurality of energy sources and a plurality of second sub-systems, each of said second sub-systems being operatively associated with a corresponding one of said energy sources. Mistr fails to disclose an energy supplier having a plurality of energy sources and a plurality of second subsystems associated with those energy sources.

Although Mistr allegedly describes a system used by "transmission owners, energy providers and energy buyers," nothing in Mistr teaches or suggests a communication network for planning energy supply between an energy supplier *having a plurality of energy sources* and the corresponding *energy sources*. As described in the application on pages 47-49, the claimed system for planning energy supply for energy consumers may be employed within a power plant system having several power sources such as turbo sets. Such a system provides energy consumers and energy suppliers with the various benefits as described therein.

Claim 36, as amended, is also directed to communication interfaces, each operatively associated with a processor configured to execute one first automated software routine for exchanging energy planning information between sub-systems and one second automated software routine for negotiating an energy supply specification for energy consumers. Although Mistr purportedly describes a system used for reviewing data and making informed decisions about an energy transportation network based on that data, nothing in Mistr teaches or suggests a processor that *executes a first automated software routine* for exchanging energy planning information and *a second automated software routine for negotiating an energy supply specification*. Mistr neither discloses any specific *automated software routines* for executing the specific components of the energy supply planning system nor does it teach or suggest use of the system for actually carrying out any negotiation.

Because Mistr does not disclose an energy supply planning system for use with an energy supplier and its various energy sources, and does not disclose a first and second automated software routine for exchanging energy planning information *and* negotiating an energy supply

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specification, claim 36, and claim 37 which depends from it, is respectfully submitted to be patentable over Mistr.

Claim 40

Claim 40, as amended, recites a processor that executes a first automated software routine for exchanging energy planning information through a communication interface between a processor and energy suppliers and a second automated software routine for negotiating an energy supply specification from energy suppliers to energy consumers. Mistr fails to disclose a processor that executes any such *automated* software routines.

Although Mistr appears to describe a system for reviewing data and using that data to make informed decisions about an energy transportation network, nothing in Mistr teaches or suggests that the system is carried out by any *automated* software routines. Furthermore, while the system users may allegedly use the information obtained on the system to negotiate use of the energy transportation network, nothing in Mistr discloses that the negotiation itself occurs through the system by a *second automated software routine*. At most, Mistr purportedly describes a system whereby users review information over the network and report any completed negotiations for movement of energy to a system Administrator. Nowhere is the negotiation itself carried out over the system through an *automated software routine*.

For at least these reasons, claim 40 is respectfully submitted to be patentable over Mistr.

III. REJECTIONS UNDER § 103(a)

Claims 1, 3-8, 12, 35, 42-44 and 53-54 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Mistr, further in view of Gaus.

A rejection under 35 U.S.C. § 103(a) requires the establishment of a *prima facie* case that the claimed subject matter, including all claim elements, would have been obvious to a person having ordinary skill in the art on the basis of either a single prior art reference or more than one

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reference properly combined. As no such *prima facie* case has been established for these claims, Applicant respectfully traverses these rejections, as set forth more fully below.

Each of independent claims 1, 35, 42, 44 and 53 contain language specifically directed to a processor that executes a first automated software routine for exchanging energy planning information through a communication interface between a processor and energy suppliers and a second automated software routine for negotiating an energy supply specification from energy suppliers to energy consumers. Neither Mistr nor Gaus, alone or in combination, disclose a processor used to execute any such *automated* software routines.

As described above with respect to claims 36 and 40, although Mistr appears to describe a system for reviewing data and using that data to make informed decisions about an energy transportation network, nothing in Mistr teaches or suggests that the system is carried out by any *automated* software routines. Furthermore, while system users may allegedly use the information obtained on the system to negotiate use of the energy transportation network, nothing in Mistr discloses that the negotiation itself occurs through the system by a *second automated software routine*. At most, Mistr purportedly describes a system whereby users review information over the network and report any completed negotiations for movement of energy to a system Administrator. Nowhere is the negotiation itself carried out over the system through an *automated software routine*. Likewise, nothing in Gaus teaches or suggests these claimed features, nor does the Examiner make such an allegation.

For at least these reasons, claims 1, 35, 42, 44 and 53, and claims 2-7, 12 and 54 which depend from them, are respectfully submitted to be patentable over the combination of Mistr and Gaus.

IV. NEW CLAIMS 55-60

Claims 55-60, newly added by this amendment, distinguish over the art of record and their allowance is respectfully requested.

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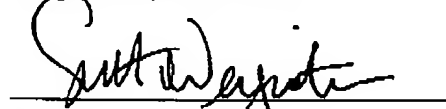
CONCLUSION

Claims 1-7, 12, 35-37, 40, 42, 44 and 53-60, now pending in the application, for the reasons set forth above, recite patentable subject matter and are in condition for allowance. Reconsideration and allowance are therefore respectfully requested.

The Commissioner is authorized to charge any required fee to Deposit Account No. 23-1703.

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Respectfully submitted,



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